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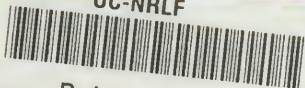
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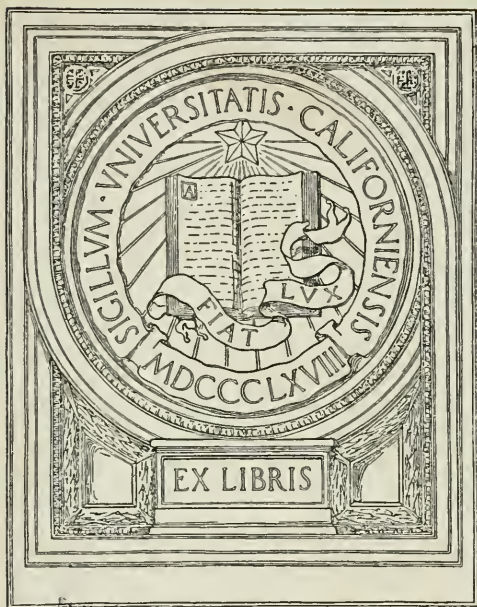
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GENERAL Mining Regulations

OF THE

STATE OF BAHIA

For the execution of Law No. 624
of September 9, 1905



THE BRAZILIAN REVIEW

RIO DE JANEIRO

1907

GENERAL Mining Regulations

OF THE

STATE OF BAHIA, *Brazil*
" (State)

For the execution of Law No. 624
of September 9, 1905



THE BRAZILIAN REVIEW

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GENERAL MINING REGULATIONS

OF THE

STATE OF BAHIA

FOR THE EXECUTION OF LAW No. 624 OF SEPTEMBER 9, 1905

CHAPTER I

OF MINES AND THEIR CLASSIFICATION

Art. 1. Mines are all deposits of mineral substances found within or upon the surface of the earth's crust and of use for commercial or industrial purposes.

Art. 2. Mines or deposits, susceptible of utilization, containing any of the following substances, are subject to the action of this law, *viz*: -- Gold, silver, platinum, nickel, cobalt, iron, manganese, lead, bismuth, zinc, tin, mercury, antimony, arsenic, chromium, uranium, palladium, molybdenum, beryllium, glucinum, zirconium, titanium, thorium, cerium or other metallic or metalloidal substances native or combined ; coal, graphite, lignite, anthracite, peat (*turfa*), sulphur, petroleum, naphtha, asphalt, bituminous schist, all species of combustible minerals or inflammable substances, fossils, bitumen and oil ; diamonds, carbonados, sapphires, rubies, emeralds, turquoises, topazes, garnets, agates, tourmalines, amethysts, lapis lazuli, and crystals and precious stones in general ; mica, talc, salt, nitre, marble and other limestones ; ochres, pyritix, magnesian, and aluminiferous earth or any similar substances ; mineral or medicinal waters ; and finally all kinds of minerals susceptible of utilization from a commercial or industrial standpoint which may not be, in conformity with these Regulations, classed as quarries.

Art. 3. The following shall be considered quarries, or shall be entitled for the purposes of the administration of these Regulations, to similar treatment.

§ 1. Massive rocks not carrying minerals which are worked for building stone for public or private use, excepting limestone.

§ 2. Clay, sand, gravel, sandstone, conglomerate or other building materials not containing valuable minerals available for industrial employment.

§ 3. Deposits of limestone fragments collected for lime burning.

§ 4. Salt pans or ground suitable for the production of common salt or chloride of sodium from sea-water by evaporation.

Art. 4. Quarries may be worked free of tax by the owner of the soil or with his permission, due respect being paid to local and general laws governing safety, good order and health.

They are for the purposes of this regulation excluded from the category of mines when classified according to the preceding article.

CHAPTER II

OF THE MINING REGIMEN

Art. 5. Within the limitations prescribed by Law No. 624 of September 9th, 1905, and explained in these Regulations, mines are the property of the owner of the soil.

§ 1. Lands on which minerals may be discovered shall be transferred as provided by these Regulations to the inventor or discoverer if he be not the owner of the soil and there be no accord between the two.

§ 2. Legal discovery or invention, established by registration is the title which confers rights in the mine and to the incorporation of the said title with that to the soil, which if it belong to the State shall be ceded gratuitously, under the conditions laid down in these Regulations, and if it be private property shall be disappropriated *pro bono publico* as a guarantee of the rights of the legal discoverer, save and except in the cases of diamond deposits, public rivers or foreshores, in which cases mining operations are subject to special rules.

§ 3. Rights acquired by the legal discoverer will be maintained according to these regulations in order to favour production.

Art. 6. Subject to the restrictions laid down by these Regulations, there belong to the State : —

§ 1. Mines existing,

a) on lands thereto belonging, whether vacant or escheated by State legislation or purchased.

b) on lands sold as vacant since the passage of Law No. 601 of September 18th, 1850, with the clause contained in Art. 16 § 4 of the said law under which such lands remain subject to any future mining legislation.

c) on lands granted by the public authorities with mining rights reserved.

d) on lands sold, legitimised or revalidated on condition that rights to minerals or hidden treasures of the subsoil were

reserved in accordance with Art. 5 of Law No. 136 of August 23rd, 1901.

e) in public navigable rivers within the limits of the State of Bahia.

f) on foreshores.

§ 2. Diamond lands so classified in accordance with existing legislation.

§ 3. Mines which are abandoned, or which are not worked within the legal period of grace.

Art. 7. Mines existing on municipally owned lands belong to the respective municipalities, subject to the restrictions referred to in the two preceding articles and in other articles of these Regulations, rights acquired by the State being reserved.

Art. 8. Mines belonging to the Union are excepted from the action of these Regulations and of Law No. 624 of September 9th, 1905. Such are : —

§ 1. Mines on land indispensable for fortifications, military works or federal railways.

§ 2. Mines on land within this State which by Federal enactments have been submitted to special legislation for the construction of arsenals and other military establishments and institutions of Federal convenience.

§ 3. Mines on lands acquired by the Federal Government by purchase, bequest or other method of transfer.

Art. 9. Diamantiferous lands are subjected to a regimen instituted in special regulations.

Art. 10. Any person discovering a mine on his own land and observing the conditions of Law No. 624 of September 9th, 1905, and of these Regulations, may dispose of the same as soon as registration is completed and the certificate issued.

Art. 11. Prospecting, working of mines, and all correlative acts are invested with the character of work of public utility.

CHAPTER III

OF THE INSPECTION OF MINING INDUSTRY

Art. 12. The superintendence and supreme fiscal action in all matters relating to the mining industry in the terms of these Regulations is an attribute of the Government of the State, represented by the Governor and Secretary of State.

Art. 13. The immediate direction of the administrative service created by these Regulations and the superior inspection of this branch of industry, with a view to surrounding it with the guarantees necessary to its development shall be in charge of the Directorate of Mines, Lands, Colonization and Immigration.

Art. 14. The Directorate of Mines and Lands is the organ of the Government of the State in all matters concerning mining.

Art. 15. The Director of Mines and Lands, as Chief of the Directorate or central department shall be assisted by the functionaries of the same and by extra assistants or commissions

acting in accordance with the laws, regulations and orders in force.

Art. 16. The Government may create, on the proposal of the Director, as many mining districts as may be convenient.

Art. 17. Each district shall include one or more municipalities or parts of municipalities as may be found best.

Art. 18. The Government shall appoint for each district a professional man of recognised ability to exercise the functions of Delegate of the Directorate of Mines and Lands (anglicé, Mine Warden.)

Art. 19. In his official capacity the Delegate of the Directorate of Minas and Lands may use the title of "Delegado de Terras e Minas."

Art. 20. There shall be an office or department established in each district, to be known as the Delegation of Lands and Mines.

Art. 21. The office or department shall be maintained at the cost of the Delegate when there is no special organisation or press of work without direct fees from interested parties, at the discretion of the Government.

Art. 22. The Delegate is the chief of the Delegation, and is responsible for all public administrative duties with respect to lands and mines in accordance with land and mining laws.

Art. 23. The Delegates of Lands and Mines shall receive from interested parties only the fixed fees for survey and demarcation and such other fees as may be secured to them by legislation, regulation or official order.

Art. 24. When in any district there exists a mine in active operation, so as to produce an increase of unpaid work, the Government may fix a monthly salary to be paid to the Delegate, as well as a proportion of the taxes or duties yielded by his district.

Art. 25. Delegates may select engineers, surveyors or assistants as may be required, observing the proper forms and with the advantages secured by the mining law—but in this case without salaries paid from the public funds.

Art. 26. When the extension of a mine in active work renders essential the appointment of assistants for the duties of the Delegation, the Government shall nominate such at a reasonable rate of pay.

Art. 27. The provisions of Articles 24 and 26 may also be applied to the administration of diamantiferous lands, in accordance with the special regulations.

Art. 28. The Government may designate responsible persons who without onus on the public funds may undertake *pro tem* the administration and fiscalisation of mines belonging to the State situated in districts to which no delegate has been appointed until such time as the Government come to a decision as to the utilization of such mines.

Art. 29. The Directorate of Lands and Mines shall collect statistics and other data necessary for the preparation of geological maps of the State.

Art. 30. Both the Directorate and its Delegates and other assistants are required to use their best efforts towards the effective execution of these Regulations.

Art. 31. The director of Lands and Mines will issue such instructions as may be necessary to the regular execution of the services under his direction.

CHAPTER IV

OF PROSPECTING AND MINING WORK

Art. 32. Prospecting work is a conjunction of investigations carried out on the surface and in the interior of the earth with a view to the recognition of geological and mineralogical conditions, and to the discovery and determination of the industrial importance of deposits of useful mineral or fossil substances.

Art. 33. The individual or juridical person at whose expense prospecting work is carried out is considered to be the prospector.

Art. 34. No person has the right to proceed to prospect on lands which are the property of another, nor may any person occupy such ground with machinery or building for mining purposes without the consent of the proprietor, except in case of official intervention and with due guarantees as provided by these Regulations.

Art. 35. For the purpose of these Regulations by mining work is understood both prospecting and regular working, crushing, concentration, or any form of treatment carried out in the locality of the mine of fossil or mineral substances included in the classification of mines.

Art. 36. Whenever possible mining work should be carried out under the direction and technical responsibility of a Mining Engineer, or lacking such a person, of a competent professional man or expert.

Art. 37. Prospectors, mine owners and managers are under obligation to furnish the Directorate of Lands and Mines with information, statistics and economic data whenever such may be called for, relating to development, production and the march of events on their mines.

Art. 38. Excavations or other works involving disturbance of the surface will only be permitted in the following cases after Government sanction has been obtained.

§ 1. At a less distance than 30 metres from a railway or general public road, and within a zone 300 metres wide surrounding cities, towns and villages.

§ 2. Beneath isolated buildings or within 70 metres of the same or of walled enclosures, gardens, orchards, farmyards,

courtyards or other dependencies of houses except with the proprietor's consent.

§ 3. In the immediate vicinity of running springs or sources of drinking or mineral water, in order that they may not be diverted or injured.

Art. 39. Mining work should be carried out with the minimum amount of damage to growing timber; it is permitted however, on observing these regulations and the Forest laws of the State, to cut timber when necessary to the carrying out of the work or when required for timbering workings, for building or other purposes indispensable to the work.

Art. 40. The prospector may not commence regular operations or dispose of minerals extracted before effecting registration of the discovery and obtaining legal recognition as legal discoverer or inventor.

§ 1. The Directorate may grant to the prospector written permission to dispose of a fixed quantity of samples or of a portion of the mineral got in the course of prospecting work.

§ 2. Persons contravening this article will incur the following penalties.

a) Forfeiture of the products.

b) Suspension of work and loss of license or miner's right if the lands be State property.

c) Expropriation of lands *pro bono publico* and cession thereof to him who shall offer the best terms, if the lands be his own property.

Art. 41. The individual or juridical person on whose account prospecting or mining work be carried out shall be responsible for the payment of compensation for damage done to private or public property in the course of the work.

CHAPTER V

OF PROSPECTING ON PRIVATELY OWNED LAND

Art. 42. Any landed proprietor has the right of prospecting on his own land without authorisation or license, merely complying with the conditions of these Regulations.

Art. 43. The landed proprietor who employs any person to carry out prospecting upon his estate should previously specify the terms upon which such work is to be carried out by means of a contract entered into between the two parties.

Art. 44. Any person may, with the consent of the proprietor of the soil, carry out prospecting work on the estate of such proprietor with a view to discover and recognise deposits of mineral or fossil substances.

Art. 45. The consent of which the preceding article treats may be conditional or unconditional.

§ 1. A previous contract executed before a notary is the only admissible proof of a conditional contract.

§ 2. In the absence of a contract it is to be understood that consent was unconditional, and the right of discovery shall

belong to the prospector, in whose favour the land may be expropriated.

Art. 46. The landed proprietor who consents conditionally to the carrying out of prospecting work on his estate should afford to the prospector a guarantee of his share in the profits arising from his discoveries.

§ 1. Exorbitant exigencies are equivalent to a refusal.

§ 2. In case of refusal, official intervention may take place if there be special circumstances tending to demonstrate the advisability of prospecting.

Art. 47. Such special circumstances are evident indications of the presence of mines.

Art. 48. Notable surface indications of mineral deposits ; the finding of minerals which when recognised by a competent expert appear to him to demonstrate the theoretical probability of the existence of useful deposits ; or the partial outcropping of already known mines requiring investigation in order to settle the question of their importance and industrial value, shall be considered as evident indications of the presence of mines.

Art. 49. Proof of the advisability of prospecting is subject to the control of the Directorate of Lands and Mines, and shall be judged by Government despatch.

§ 1. The Government despatch being in possession of the Directorate of Lands and Mines, it shall be announced by *edital* affixed to the doors of the department, and be published not less than thrice in the official organ for the information of the proprietor and other interested persons.

§ 2. Following on the publication of the *edital*, the Directorate of Lands and Mines shall provide for the communication of the modification treated of in the following chapter.

CHAPTER VI

OF MODIFICATION OF PROSPECTING ON PRIVATE LANDS, AND OF ITS EFFECTS

Art. 50. It being proved and judged advisable that prospecting be carried out on privately owned lands in conformity with Articles 47, 48 and 49 of these Regulations, the proprietor shall be notified to declare within 30 days by a written instrument executed before a notary whether or not he consents to prospecting by a concessionaire or licensee officially designated, or if he assumes the responsibility of carrying out the work himself and of presenting a report embodying the results obtained within one year, counting from the date of notification.

Art. 51. If within the days of grace a contract be drawn between the officially appointed prospector and the proprietor, official intervention shall cease, once the contract has been examined and found regular.

Art. 52. The notification referred to in Article 50 shall be served by the Delegate of Lands and Mines, or in case of non

existence of such an official in the zone, or of his inability to serve, by the judge of the district in which the property is situated.

Puisne Judges (*Juizes de direito*), when the district be the seat of a municipality, or *Juizes preparadores* in other districts shall be competent to make notification.

Art. 53. The Delegate of Lands and Mines or in his absence, the competent Judge, being informed by the Directorate of Lands and Mines or by the official press of the issue of a Government despatch in accordance with Article 49, shall make notification by letter to the proprietor of the lands or to the person resident upon them; the bearer of the letter shall obtain a receipt for the same, or not obtaining such receipt shall certify its delivery.

§ 1. In this letter, taking into account and deducting the reasonable number of days required to travel to the locality and back shall be specified the day upon which the period of 30 days referred to in Article 50 shall commence to run.

§ 2. In the absence of the proprietor, his manager or representative shall be competent to replace him. No such person being encountered, the letter shall be delivered to some member of his household. None such being found and the house being closed, the letter may be handed to a neighbour or other person undertaking its delivery.

Art. 54. An *edital* or official notice bearing the same date as the notification shall without delay be affixed to the doors of the administrative centre of the district or municipality, and when possible duplicates of the same in the most public places of the region, all signed by the Delegate of Lands and Mines or Judge, announcing the notification and the date of expiry of the period of 30 days conceded according to § 1 of the preceding article.

Art. 55. If the proprietor reside in the Capital or in a known place outside of his estate the Delegate of Lands and Mines or the Judge may advise him by letter, independently of the formalities prescribed by Article 53.

Art. 56. The *edital* of the Directorate of Lands and Mines in conformity with Article 49 § 1 and the *editaes* of the Delegate of Lands and Mines or the Judge in conformity with Article 54 shall render complete the citation of all persons who may have an interest in the property, should the proprietor be absent or absent himself purposely, in case of doubt as to ownership, or in any unforeseen circumstances.

Art. 57. The proprietor who shall, within the period of grace, make the declaration to which he has been cited, shall be obliged immediately to obtain from the notary before whom such instrument was executed a certificate of the same and to hand it without delay to the Delegate of Lands and Mines or to the Judge who notified him, on pain of his declaration being null and void, counting from the eighth after the termination of the thirty days of grace.

Art. 58. Should the estate be undivided or not be demarcated, the person in charge or possession shall respond for other interested parties.

Art. 59. Should the estate belong to two or more partners in common, the consent of one partner shall be binding on the others.

Art. 60. On the termination of the period of 30 days referred to in Articles 50, 53 § 1 and 54 and of the eight days allowed for the preparation of proofs, the Delegate of Lands and Mines or the Judge who may have made the notification shall communicate to the Directorate of Lands and Mines the result of his proceedings, remitting a certificate of the delivery of the letter of notification, of the posting of *editaes*, with a statement of the places in which the latter were posted, a certificate of the terms of the declaration of the proprietor if such be made, together with such information as may be necessary to render the whole clear and intelligible.

Art. 61. A territorial impost or annual tax shall be levied, at the rate of from one to five hundredths of a real (100 to 500 réis per hectare — of 2.5 acres) at the option of the Government, and computed from the expiration of the period of 30 days treated of in Articles 50, 53 § 1, 54 and 60 on the estate in respect of which the following facts shall be verified.

§ 1. The proprietor not having made the required declaration.

§ 2. The proprietor having declared his refusal of consent.

§ 3. The proprietor, while giving his consent, having stipulated unacceptable conditions, thus bringing into effect Article 46 § 1, not encouraging, or guaranteeing sufficiently the rights of the prospector.

§ 4. The work of prospecting not being completed within a year of the expiry of the period of 30 days on account of circumstances arising out of the three preceding paragraphs.

§ 5. There being a declaration of the proprietor obliging himself to carry out and report upon prospecting work, within a year of the date of notification, and such report not being presented, or being incomplete or imperfect, through the fault, fraud, deceit or negligence of the proprietor.

Art. 62. The Government of the State is empowered to decide in cases of application of impost or tax, in view of documents to be presented by the Directorate of Lands and Mines.

Art. 63. The amount of tax to be levied on a property the area of which is not exactly known shall be based on the valuation made by order of the Directorate of Lands and Mines.

§ 1. Any proprietor not concurring with the valuation so arrived at may require the measurement and demarcation of the same, which service shall be carried out by the Delegate of Mines and Lands, or by a competent assistant on his responsibility.

§ 2. Any difference found between the two valuations, whether in favour of the proprietor or of the State shall not

serve as a ground for claims of restitution, but only as a basis for the assessment of taxes for the succeeding six months.

§ 3. The tax shall be levied for each period of six months ending June 30 and December 31 and be paid within 30 days of its falling due on pain of distress.

§ 4. The first payment shall be assessed for the number of months elapsed since its becoming due, any fraction of a month to count as a full month.

§ 5. In case of the tax ceasing to be levied in accordance with Article 64, payment shall be made on the occasion and up to the date of its ceasing to be due.

Art. 64. The import of which Articles 61, 62 and 63 treat shall cease only from the date on which, results of prospecting proving favourable, registration shall be completed in the Directorate of Lands and Mines; or from the date on which, there shall be presented to the said department, and by the same verified and accepted, satisfactory proofs of efficient prospecting having given a negative or unfavourable result.

Art. 65. If the declaration made according to Article 57 should contain conditions not acceptable to the designated prospector or concessionaire, the proprietor shall be subject to the action of Article 59 and its paragraphs, should the Government consider the said conditions unacceptable. Should the Government consider them acceptable and the concessionaire still refuse to accept them, the Government shall be at liberty to concede to any other reasonable person who may present himself the right to carry out the work of prospecting.

In case of no prospector duly qualified presenting himself, and accepting the conditions laid down by the proprietor, and of no regular prospecting operations having been carried out within a year of the date of notification referred to in Articles 50, 53 § 1, 54 and 60, the provisions of Articles 61, §§ 3 and 4 shall be applied.

Art. 66. The prospector accepting the proprietor's conditions shall enter into a contract with him.

Art. 67. When, as a result of action taken under Articles 50, 53 and 54, declaration of consent to prospecting operations has been made, but no contract has been entered into, it shall be facultative to the proprietor, before the commencement of work to fulfil the following formalities for his guarantee:—

§ 1. The prospector is obliged to find surety or to deposit caution money sufficient to guarantee the proprietor against loss or damage

§ 2. The proprietor is entitled to assure himself against imminent loss or damage by requiring the deposit of money or surety to an amount to be agreed upon between him and the prospector.

§ 3. In the absence of accord between the proprietor and the prospector with regard to probable loss or damage, the Delegate of Lands and Mines shall grant a period of from three to eight days for each party to present reasons in writing, on

pain of nonsuiting, and shall then proceed to a valuation and delivery of his decision.

§ 4. In the absence, or impediment to the action of, the Delegate of Lands and Mines, valuation of probable loss or damage referred to in the preceding paragraph, shall be made by arbitration, the arbitrators being nominated by the local Judge, or in default by the following method :—

a). Each party shall designate three persons from among whom the other party shall select one.

b). The two parties shall at the same time jointly choose a third ; or in case of disagreement, each shall designate two persons, from a mong whom one shall be chosen by lot.

c). When one or the other party shall absent himself it shall be competent to the local Judge to nominate the arbitrators.

d). The arbitrators assembled, they shall reply clearly to the questions addressed to them by the Judge within a period marked by him.

e). In case of disagreement between the two arbitrators representing the two parties, each shall give his reasons in detail, and the third shall decide.

§ 5. The Delegate of Lands and Mines, immediately on giving his decision under paragraph 3 of this article shall forward it, together with statements of reasons, if any, preferred by the parties, to the Director of Lands and Mines.

§ 6. Should the valuation of probable loss and damage have been arrived at by arbitration, the Judge shall without delay communicate to the Director of Lands and Mines the report of the arbitrators.

§ 7. The Director of Lands and Mines, approving or disapproving the report of the Delegate or of the arbitrators shall refer the matter to the Government, which shall decide the matter definitely.

Art. 68. Proved and judged desirable that prospecting operations be carried out on private lands whereof the subsoil is reserved to the State in the terms of sections *b, c or d* of Article 6 § 1, the same notification and other formalities prescribed by Articles 50, 53, 54, 57 and 60 shall be observed, with the following rules and restrictions.

§ 1. If the proprietor comes within the scope of Article 61, §§ 1, 2 or 3, it is permitted to the Government to concede permission immediately to the prospector to carry out his work.

§ 2. When the proprietor comes within the scope of Article 61, § 5, there being a failure or likelihood of failure on his part to carry out his obligations, the Government may permit a responsible prospector to proceed with his prospecting.

§ 3. No concession having been granted under the two preceding paragraphs, and no prospecting having been carried out, the property shall become subject to the taxes or imposts provided for by Articles 61, 62, 63 and 64 of these Regulations.

§ 4. A license or concession having been granted under paragraphs 1 and 2 of this article the proprietor is entitled to require before the commencement of work that the formalities laid down in paragraphs 1 to 7 of Article 67 be complied with in order to afford a guarantee against loss or damage caused to his property.

CHAPTER VII

OF PROSPECTING ON LANDS BELONGING TO THE STATE

Art. 69. Any person, national or foreign, in enjoyment of his civil rights, who desires to prospect on lands belonging to the State, should apply for a license so to do to the Government, indicating the place and region selected by him, such license being granted for such a time and extending over such an area as may be determined in accordance with these Regulations.

Art. 70. Juridical persons are, for the purpose of these Regulations, considered as individuals, the legal exigencies in force being observed.

Art. 71. The concession of a license shall always be made, upon proof of the responsibility of the applicant, in the absence of just impediment.

Art. 72. The request for a license shall be directed to the Governor of the State and shall comprise the name, residence, nationality and profession of the applicant, proofs of his capacity for the carrying out and direction of survey work, a clear indication of the municipal district, place, and principal point for commencement of work as well as a statement of the exact or approximate area of land required, according to Article 82.

Art. 73. The request shall be handed to the *Porteiro* of the Directorate of Lands and Mines, who, in the presence of the applicant, shall enter it in a special register, noting its numerical order, and the hour, day, month and year of its reception.

Art. 74. Immediately on registry of the application, the *Porteiro* shall note *in extenso*, and in legible characters upon the margin the number of the entry of the same in the register, and shall present it immediately to the Director of Lands and Mines.

Art. 75. The Director of Lands and Mines, after gathering such information as he may judge necessary, shall submit the application together with his recommendation to the Secretary of State.

Art. 76. The Secretary of State shall decide in the name of the Governor of the State whether or not to grant the application; and in case of a favourable decision, shall mark a period within which a report of results obtained and completion of prospecting work must be effected.

This period shall not be less than eighteen or more than twenty-four months, counting from the date of the definite despatch announcing the concession, and shall be subject to the

restrictions imposed by Articles 79, 80 and others of these Regulations.

Art. 77. The application being despatched by the Secretary of State shall be returned on the same day or the following working day to the Directorate of Lands and Mines for the purposes of the following article.

Art. 78. When the application has been favourably despatched by the Secretary of State, the Directorate of Lands and Mines shall issue in favour of the applicant a title of licence or permission conceded for prospecting, in the terms of the despatch, and shall place the application in its archives; in case of unfavourable despatch the application shall be returned to the applicant on his giving a receipt.

Art. 79. Prospecting should be commenced without unnecessary delay, and always within one year from the date of the despatch granting permission to prospect. Work may not be interrupted for more than 30 days without just cause and notice given to the Directorate of Lands and Mines.

Art. 80. At the expiry of one year from the date of concession, if the Directorate of Lands and Mines should verify the non-commencement of prospecting, or that work has not been carried out in accordance with proper methods of practice, the license shall be annulled.

A new license may only be granted to the ex-concessionaire under the same conditions as governed the original grant and on a fresh application, if the failure to satisfy the conditions of the first grant be fully justified and proved to be due to *force majeure* and if no other person, in the opinion of the Government competent, shall present himself as an applicant.

Art. 81. At the end of the period for which permission was granted, if the prospecting work be of notable extent, and there be evident necessity for the continuation of the work in order to open up the deposit and to complete the determination of the basic elements for computing the value of the same, a reasonable extension of the earlier license to prospect may be granted.

Art. 82. When the area covered by the license has not been measured and demarcated, the limits within which work may be carried out should be defined by natural boundaries or known landmarks, and should be roughly adjusted so as not to exceed a hundred thousand hectares (one thousand square kilometres) the following rules being respected :—

§ 1. Within a non-demarcated area prospecting may be carried out by more than one person with official license.

§ 2. The number of concessionaires permitted to work within any one area shall be limited at the discretion of the Government, always without prejudice to the vested interests of first comers.

§ 3. Within a radius of one thousand metres from the principal point of exploration, or of the point or points at which any concessionaire is engaged on excavations, sinking, boring, driv-

ing or other mining work, no other person may initiate similar work.

§ 4. In order to secure the guarantee of the preceding paragraph, any licensee considering himself aggrieved may apply to the Delegate of Lands and Mines for verification of the distance, which work shall be carried out by the Delegate or his assistant.

§ 5. In case of an application for measurement of distance, both concessionaires shall deposit the amount of the measurement fee, which shall be charged to the losing party, and shall be the sum laid down by the Land and Mining Laws.

§ 6. Any concessionaire refusing to comply with the provisions of the preceding paragraphs shall lose his license.

Art. 83. Concessions of licenses to prospect on unsurveyed lands in accordance with Article 82 shall not deprive the Government of their right to discriminate these lands, whether for sale or other purpose, nor to their right to contract for the exploitation of forests and the accessory products of the same; save and except, with regard to sale, the area guaranteed by paragraph 3 of the preceding article, on which prospecting work is actually in progress be respected.

Art. 84. In case of the existence within the area covered by the license, of privately owned land bearing evident indications of the existence of mineral deposits, and no accord being arrived at between the concessionaire and the proprietor, the provisions of Article 50 and others of these Regulations applicable to the case shall be followed.

Art. 85. The Director of Lands and Mines may authorise the Delegate of Lands and Mines to measure and demarcate, without prejudice to the rights of third parties, the land selected by him for his prospecting work, provided that it does not exceed in area ten thousand hectares, whether it be one parcel or in various places within the zone determined by his licence.

§ 1. Within demarcated parcels of land the concessionaire alone may prospect.

§ 2. When the prospecting work is complete on any demarcated area, and the concessionaire abandons it, other areas of similar extent may be surveyed and demarcated so as to complete the area of ten thousand hectares; and so on in succession until the whole of the concession has been prospected, if such be possible without offence to the rights of others.

§ 3. The landmarks employed for demarcating lands surveyed for prospecting purposes shall be of a different pattern and size from those employed to demarcate lands alienated by the State and on private property, in order that there may be a notable distinction and no cause be given for confusion.

Art. 86. Concessionaires of prospecting licences are obliged to respect the provisions of Article 39 of these regulations, and may not destroy the forests, nor cut, transport or sell timber or other forest products, on pain of being deprived of their licenses

as well as incurring the penalties prescribed in the Forest Regulations put in force by Decree No. 303 of May 26th, 1905.

§ 1. When for prospecting purposes it may be necessary to cut timber the concessionaire shall obtain permission from the Delegate of Lands and Mines or other authority acting in his place in accordance with the Forest Regulations.

§ 2. Trees cut down and not made use of for prospecting work may, when convenient, be sold by public auction in presence of the competent functionary or authority, and the money paid into the State coffers.

Art. 87. On lands belonging to the State outside of conceded zones or areas subject to legal impediment prospecting may be freely carried on independently of Government license, so long as the work is of the nature of a slight inspection or shallow working, always respecting the land laws and forest regulations; borings and small excavations may be made if no inconvenience be caused and the Delegate of Lands and Mines or other competent authority consent, in accordance with the laws in force.

Art. 88. When prospecting operations carried out on State lands do not result in the discovery of a mine, it is the duty of the prospector to close the mouths of galleries or shafts and to drain off any accumulations of water dammed back as a result of his operations, on pain of paying compensation for any damage caused thereby.

CHAPTER VIII

OF PROSPECTING ON PUBLIC RIVERS

Art. 89. On public rivers or rivers the property of the State outside of zones where there are concessions or legal impediments, prospecting may be carried out freely by means of portable appliances without a fixed establishment independently of license or official concession.

Art. 90. Any person desirous of establishing a regular prospecting establishment on public rivers, to better verify the value of deposits and to better guarantee his rights of discovery, should address a requisition to the Government praying for the concession of a reach of water selected by him of an extent and for a period in accordance with these regulations.

Art. 91. The Government may, taking into consideration the competence of the individual and the elements at his disposal for carrying out the work, grant the concession, provided there be no obstacle or legal impediment, of a reach not greater than from ten to fifty kilometres of the *thalweg* of the river, according to circumstances, or separate reaches amounting to this length at those points selected by the applicant.

Art. 92. The application shall be so drawn as to fulfil the requirements of Article 72 with the difference that instead of an area being described, the exact situation and extent of the reach of river desired shall be clearly set forth; it shall be handed

to the Porteiro of the Directorate of Lands and Mines, and the provisions of Articles 73 to 81 complied with.

Art. 93. The concession obtained, the concessionaire is obliged to measure and demarcate his concession within three months, on pain of nullity of the concession of the reach or reaches granted.

§ 1. The measurement and demarcation shall be carried out by the Delegate of Lands and Mines or a competent assistant, the cost being defrayed by the concessionaire in accordance with the Land and Mining legislation in force.

§ 2. The demarcation shall be set out by means of temporary landmarks if natural fixed objects be not encountered which will serve as points of reference.

Art. 94. Only the concessionaire has the right to prospect the conceded reach so long as his concession remain in force.

Art. 95. The concession of prospecting rights does not give the right to occupy the margin when this is private property without the consent of the proprietor, save and except that when there are no betterments a belt 33 metres wide may be utilised for the installation of such temporary equipment as may be necessary to the carrying out of his obligations.

§ 1. If the place chosen cannot be utilised without damage to the property, and no agreement be arrived at, the provisions of Article No. 67, paragraphs 1 to 7 of these Regulations shall be put in force.

§ 2. When the advisability of prospecting work being carried out on lands marginal to public rivers and privately owned has been established and the concessionaire of permission to prospect on the corresponding reaches cannot arrive at an accord with the proprietor, the provisions of Article 50 and others of these Regulations shall be applied, referring to lands under private ownership.

Art. 96. During the period for which the concession is granted, the provisions of these Regulations being respected, the concessionaire may install any machinery indispensable for the prosecution of his work on State lands, if such exist, on a belt of width counting from the bank of the river one kilometre in width on either bank of the reach of the river conceded to him.

In order that the exclusive right of the concessionaire to prospect on this belt of land it is essential that it be measured and demarcated by the Delegate of Lands and Mines or a competent assistant at the cost of the concessionaire.

Art. 97. The existence of a concession for the exploration of public lands dealt with in Chapter VII of these Regulations does not deprive the Government of the right to make concessions for identical explorations on public rivers or on a belt one kilometre wide on each bank of such rivers, in accordance with the present Chapter, so long as these latter are open to disposal and free from discriminations made at the cost of prior prospectors who are still at work.

Art. 98. All concessions of the right to prospect on public rivers are special and independent of anything contemplated in Chapter VII of these Regulations.

Art. 99. On public rivers existing within the zone of State lands bordered by concessions granted under Chapter VII of these Regulations, only the prospector who may possess concessions granted under the provisions of the said Chapter VII has the right to prospect; and when the conditions of Articles 90 and 96 are fulfilled, only the prospector who may obtain a concession drawn in accordance with these Articles may prospect thereon.

Art. 100. It is obligatory on all persons prospecting on public rivers to respect the principles and legislation governing fishing and navigation.

Art. 101. Failure to observe the conditions under which concessions to prospect on public rivers will involve forfeiture of the said concession if, after warning, the concessionaire persists in his offence or offences.

CHAPTER IX

OF REGISTRATION AND OF RIGHTS OF DISCOVERY

Art. 102. Registry of the discovery under the conditions laid down in these Regulations is indispensable as a previous condition to the working of a mine whether situated on lands which are the property of the State or upon private property, and the certificate of this registry, viséd by the Director of Lands and Mines, is the fundamental title which legalises and secures the rights of the discoverer.

Art. 103. The work of registration is placed in charge of the Director of Lands and Mines and of his Delegation.

Art. 104. The person who first registers the discovery is considered to be the discoverer or inventor, provided that the priority of application is not the result of fraud or deceit.

Art. 105. There is a discovery, and registration may effected, when in consequence of regular prospecting evidence is forthcoming of the existence of mines not yet registered or separate and distinct from those already registered so that the deposit may be worked with profit independently of neighbouring mines, observing the dispositions of these Regulations.

Art. 106. Whosoever may discover mines or deposits of mineral substances, whether upon lands the property of the State or not, should without delay make application for the necessary registration as a guarantee of his rights in order that he may be recognised as the legal discoverer.

Art. 107. The application shall be addressed to the Director of Lands and Mines and handed to the Porteiro of the Directorate of Lands and Mines in the State Capital; or else handed to the Delegate of that Directorate, if the zone possess one and the discoverer desire to initiate registration before that functionary.

Art. 108. The application for registration shall be accompanied by samples of the mineral or minerals discovered, and by a full report containing the following data :—

§ 1. Name, profession, nationality, civil condition, age, and residence of the discoverer.

§ 2. Names and residences of partners, if any there be.

§ 3. Township within which the mine discovered is situated.

§ 4. Name, if any, of the locality, and clear, distinct and fixed marks of the point or points whereat discoveries were made and samples extracted, notes on the surrounding region and such other information as may be needed to further exact knowledge of the locality.

§ 5. To whom belongs the land—whether to the State or to private individuals; and in the latter case, the name and residence of the owner or administrator.

In the case of public rivers, identical information must be given as to riparian owners.

§ 6. Neighbouring mines, if any, their exact or approximate distance, with the names of persons holding the titles of legal discoverers of the same.

§ 7. Nature and quality of the samples encountered and of the principal valuable substance of the deposit.

§ 8. Situation of the mine, distance from nearest towns or villages; and its position with regard to cost of transport.

§ 9. Richness and extent of the deposit; an account of the work carried out in order to open it up; instruments and plant employed; circumstances attending the discovery; and finally all elements necessary to prove the veracity and importance of the discovery which it is proposed to register.

§ 10. Whenever possible, topographical and geological plans should be annexed with data concerning the conditions under which the deposit exists, its extent, inclination and azimuth, overburden, rocks and fossils existing, giving an exact idea of the results of the survey.

Art. 109. Both application and report must be duly stamped in accordance with the State stamp laws, and signed by the discoverer or his legal representative.

Art. 110. The *Porteiro* of the Directorate of Lands and Mines or the Delegate of that Department when in possession of the application and accompanying report and samples according to Article 106 shall enter it without loss of time and in presence of the applicant in a special book, noting the ordinal number, hour, day, month and year of the entry, writing immediately, *in extenso*, and in legible characters on the margin of the application the number which it bears in the said book, wherein shall also be noted the situation of the mine and the character of the valuable constituent of the mineral.

Art. 111. In case the application is addressed to the Directorate of Lands and Mines, the *Porteiro* of that Department shall without loss of time present it, together with the report

and samples, to the chief of Department or to the Director of Lands and Mines.

Art. 112. The application and report being correctly drawn, if it appear that it is worthy of granting, the Director of Lands and Mines shall publish the fact by *editaes*.

§ 1. When the application is made directly to the Director of Lands and Mines, the *edital* shall be posted on the doors of that department and published at least three several times within the space of eight days in the official organ, cost of publication being borne by the applicant.

§ 2. When the application is made to the Delegate of Lands and Mines, this functionary shall affix *editaes* in the most public places of the region.

Art. 113. On the expiry of a period of eight days, as under the preceding article, or as soon as evidence has been gathered by the Delegate of Lands and Mines in order to avoid abuses and irregularities to the prejudice of the true discoverer the Director of Lands and Mines shall execute a despatch granting or denying the application.

§ 1. Refusal of registration of discovery shall only occur when : —

a) The Director of Lands and Mines or the Delegate certifies that the discovery has already been regularly registered and another discoverer recognised.

b) When doubts arise as to the veracity of the application and on examination of the spot being made the deposit to be non existent; or if found, proves not to contain the mineral which was the subject of the application or other similar substance.

c) A case of fraud, deceit or legal impediment is encountered.

d) The application is not accompanied by a report and samples, or is lacking in the information required by Article 108 of these Regulations.

e) The application refers to lands considered diamanti-ferous.

§ 2. If there be omissions or lack of any of the information required for the granting of registration, not being essential or showing bad faith or deceit, the Director of Lands and Mines or his Delegate may permit the correction of the application and report and the insertion of the omissions as rectifications so long as no prejudice be caused to third parties.

§ 3. As far as possible everything which may contribute to the interests or rights of the discoverer shall be facilitated, so long as rights of third persons be not prejudiced or favouritism shown between rival claimants.

§ 4. The Director of Lands and Mines or his Delegate may require in case of doubt evidence in support of the existence on the declared spot of the mineral claimed, and of the effectiveness of the discovery by means of survey or certificate by experts or by the authorities.

§ 5. Apart from the cases heretofore cited and in conform-

ity with these regulations the registry of discovery shall always be granted.

Art. 114. The definite despatch granting or denying registration shall be written upon the application itself and transcribed in the proper book.

Art. 115. The application, the report and the bulk of the samples may not be withdrawn from the central department or Directorate of Lands and Mines.

On the application of any interested party, the Directorate of Lands and Mines shall furnish, in the absence of just cause to the contrary, partial or complete certificated copies, according as may be desired by the applicant, of documents preserved in the archives of the department and of despatches executed, as well as copies of plans.

Art. 116. When the despatch registering the discovery has been transcribed in the proper book, a certificate shall be issued which after being visé by the Director of Lands and Mines shall be the diploma or title of discovery and of the rights of the discoverer.

§ 1. This certificate shall be extracted from the Register.

§ 2. Whether extracted by the Directorate of Lands and Mines or by a Delegation the title or certificate shall not be of value until it has received the visé of the Director of Lands and Mines or of his substitute in case of his absence or of impediment to his acting in person.

This circumstance should be declared by the Delegate of Lands and Mines in the text of certificates issued by him.

§ 3. It is the duty of the Delegate to call the attention of the interested party to the provisions of the preceding paragraph.

§ 4. The certificate or title shall only be issued on payment of the fees and emoluments due, which shall be noted on the said certificate.

When the certificate is emitted by the Directorate of Lands and Mines, the visé of the Director shall precede the delivery of the said certificate; when emitted by the Delegation the interested party shall as soon as possible present it at the central department or Directorate of Lands and Mines to receive the visé.

§ 5. When the applicant for registration is the owner of the lands the fee payable shall be 50\$000.

This fee shall be the property of the Delegate if paid in a Delegation, and if paid at the Directorate of Lands and Mines shall be paid into the coffers of the State.

§ 6. When the applicant for registration is not owner of the soil, the fee payable shall be in accordance with the schedule in force, drawn up by the Directorate of Lands and Mines and approved by the Government, the minimum amount being 200\$000 and the maximum 2:000\$000; from this amount the sum of 100\$000 shall be deducted in favour of the Delegate when the registration was made before him.

Art. 117. The Delegate of Lands and Mines, when a registration is effected by him, is obliged without delay to take a copy before a notary of the place serving as administrative centre of his district in addition to the certificate referred to in the preceding paragraph and to remit it with due care for its safety within eight days to the Directorate of Lands and Mines, together with the report and samples furnished in accordance with Article 108.

§ 1. The Delegate who fails to carry out the provisions of this article shall, if the applicant for registration be owner of the soil, incur a fine of 200\$000, apart from disciplinary penalties.

§ 2. The fine shall be inflicted by the Director of Lands and Mines.

Art. 118. The Director of Lands and Mines on receipt of the certificated copy of the title, the report and samples in accordance with the preceding Article shall have inscribed in the book provided for by Article 110 the peculiar circumstances of the application ; and if he consider the act of the Delegate in order, as soon as the certificate called for by Article 116 § 4 be presented shall order the discovery to be entered in the General Register Book in charge of the central department or Directorate of Lands and Mines where also the sworn copy of the title, the report and the samples shall be retained.

Art. 119. The certificate or title issued by the Delegate in accordance with Article 116 § 4 for presentation to the Director of Lands and Mines shall receive the visé of the Director of Lands and Mines only after regular annotation and entry in the General Register Book.

Art. 120. On receipt of the visé of the Director of Lands and Mines the title or certificate shall be restored to the interested party who shall forthwith be recognised as and shall enjoy the rights of legal discoverer.

Art. 121. The Director of Lands and Mines may refuse his visé to a certificate issued by a Delegate in case of discovery of any of the circumstances detailed under letters *a, b, c, d* and *e* of Article 113 § 1 of these Regulations.

§ 1. When the Director of Lands and Mines shall consider incorrigible the faults which led to the refusal of his visé he shall order the Delegate to cancel the registration.

§ 2. In the case contemplated by the preceding paragraph, the Delegate shall incur a fine equal to double the fee paid by the applicant for registration in conformity with Article 116 §§ 5 and 6, and the fine shall be collected executively with a surcharge of 50 % if not paid within a month of the date of its being inflicted by the Director of Lands and Mines. Apart from this the Delegate shall be subject to disciplinary penalties.

§ 3. If the Director be of opinion that the errors and omissions are corrigible, and no prejudice to third parties result, it is permitted to him to grant leave to amend and correct the documents and to complete the formalities lacking.

§ 4. In the case of reparable error or omission committed

or permitted by the Delegate he shall incur the penalties imposed by Article 445 of the regulations based on Decree No. 18 of November 29, 1897.

Art. 122. Whenever the Director of Lands and Mines places his visé upon a certificate of registration, whether originating in a Delegation or issuing from the Directorate of Lands and Mines, the following procedure shall be followed : —

§ 1. The discovery shall be announced by *édital* affixed to the doors of the Directorate of Lands and Mines and published, at the cost of the Legal discoverer, three several times in the official organ and shall be inscribed in the General Register Book as provided by Article 118.

§ 2. The Directorate shall bring the fact to the notice of the Delegate if there be one in the district in order that registration may be complete.

Art. 123. The person registering or applying for registration of a discovery who, having partners, omits at the time of making application to declare their names thus failing to meet the obligation imposed by Article 108 § 2 will be subjected to a new payment as fine, not exceeding 2,000\$000 as referred to in Article 116 § 6 for the annotation of the name of each partner making complaint and presenting his contract in evidence.

Art. 124. In case of the occurrence of the facts contemplated in the preceding article the person registering or applying to register shall have no claim for expenses arising out of the registration as against any person making complaint.

Art. 125. A deposit may not be registered more than once during the validity of the first registration within the terms of Article 141.

§ 1. If in the course of work the legal discoverer should encounter new substances of a valuable mineral character not contemplated in the primitive registration he shall bring the fact to the notice of the Directorate of Lands and Mines in order that such new minerals may be annotated upon the original registration, a complementary certificate to the first being issued.

§ 2. This complementary certificate shall be exempt from the dues established by Article 116 §§ 5 and 6, remaining subject merely to the duties payable on ordinary documents.

§ 3. The legal effect of the inscription of new minerals shall be of effect as from the date of the original registration.

Art. 126. In case of two or more applications for registration being presented at the same time, the circumstances attending each application shall be examined ; and if it be impossible to verify the actual discoverer of the deposit, that applicant who best satisfies the exigencies of these Regulations, and most clearly and unequivocally describes the situation, nature, value and special character and conditions of the mine shall be deemed the discoverer.

Art. 127. Any person discovering and afterwards abandon-

ing a mine, or commencing to work the same without resgistration shall lose his rights of discoverer.

§ 1. In the case of the mine being situated upon State lands it may be granted to the first person applying for the same affording proofs of responsibility, demonstrating his possession of the necessary means and offering guarantees for its working.

§ 2. In the case of the mine being situated on privately owned lands, the Government may decree its expropriation *pro bono publico* and grant it to any person competent to work it as provided by the preceding paragraph, or else dispose of it at public tender.

Art. 128. The State and Central Governments alone are exempt from the obligation to register mines and are not required to present certificates of registry or titles of discovery in order to be permitted to commence exploration and to be recognised as mine owners.

Art. 129. When the title of discoverer belongs not to one but to several persons, they shall be obliged to constitute themselves a company by public instrument, in which instrument shall be clearly stated by a consensus of a majority of the interested persons the name of the partner chosen to represent the company in all its official relations and also that of the person chosen to act as his substitute if he is unable to act; in any case, however, in the absence of the partners designated to act for the company, any partner actually present shall be officially responsible for the acts of the company.

This rule is subject to the following exceptions and to them alone :—

§ 1. If the discovery be of diamonds or carbonados outside of the zone considered to be diamantiferous, the discoverer shall have the right, if the soil be State property, to the gratuitous concession for a period of from five to ten years of an area of from 50 to 200 acres in the place which he shall choose, according to the importance of the discovery at the discretion of the Government; and in case the soil be private property the Government may grant him the right to expropriate a similar area *pro bono publico*.

§ 2. Mines discovered on public rivers or foreshores shall be leased to the legal discoverer.

Art. 131. The title of discovery of mines on public rivers gives the legal discoverer the right to the lease of a reach of from 10 to 50 kilometres along the *thalweg* of the river, according to the importance of the discovery at the discretion of the Government.

Art. 132. Concessions or leases may be transferred only with the previous consent of the Government, both under Article 130 § 2 and in other cases.

Art. 133. The title of discovery may only be transferred in conformity with the law governing the transfer of landed property, observing also the precepts of Chapter XIII of these

Regulations, and with the obligation of presenting to the Directorate of Lands and Mines for registration, on pain of nullity.

Art. 134. The purchaser of a title of discovery assumes all the obligations and privileges which in virtue of these Regulations belonged to his predecessor.

Art. 135. In the following cases only is a title of discovery considered null and void :—

§ 1. If the deposit be not worked within three years counting from the date of the title, whether the soil and subsoil be jointly or severally the property of the State or of another.

§ 2. If the land be the property of the discoverer and he or his successor do not commence working within 3 years from the date of the title and omit to pay the tax of 1% per annum on the value of the mine in conformity with Art. 39, paragraph of law No. 624 of September 9, 1905, and of Article 137 of these Regulations: save and except if the Directorate of Lands and Mines recognise, in view of proofs without taking into account lack of means, the material or economic impossibility of working the mine, despite the efforts of the proprietor.

§ 3. By abandonment of the mine, classed and declared as such in the terms of Chapter XIV of these Regulations.

§ 4. By the discoverer, in an express act, desisting from initiating or pursuing mining work, renouncing his rights of legal discoverer.

Art. 136. The legal discoverer shall have a period of three years wherein to commence mining work and follow it up actively.

Art. 137. An annual impost of 1% on the value of a mine whose legal discoverer being the owner of the soil fails to work it during three years from the date of the title or fails to prove the material or economic possibility of so doing in conformity with Article 135 § 2, Article 235 §§ 3 and 4 and Article 236 of these Regulations.

§ 1. This tax shall be paid every six months ending on June 30 and December 31, and within thirty days at latest of falling due.

§ 2. For the first and the last payments only the number of months for which the tax is due shall be taken into account, fractions of a month counting as a full month.

§ 3. Sums not paid within 30 days of falling due shall be subject to a surcharge of 10% per month on the sum due.

§ 4. The debt shall be considered mature and may be collected administratively when two successive half years remain unpaid.

§ 5. In the case contemplated by the preceding paragraph, the mine shall be adjudged to be abandoned.

Art. 138. The value of a mine for assessment purposes under the preceding article shall be declared by the legal discoverer on stamped paper, having his signature attested by a notary.

§ 1. If the proprietor do not present this declaration within the period marked by the Directorate of Lands and Mines the Director of that Department shall make an estimate of the value of the mine based upon data collected by him, being authorised for this purpose to order the carrying out on the property of the studies and surveys necessary.

§ 2. The declaration of the owner, or, lacking this, the data collected as provided by the preceding paragraph shall serve as a basis for the fixation of the value of the mine by the Government, represented by the Secretary of State.

Art. 139. The Director of Lands and Mines may at any time he may judge advisable order the making of examinations by experts.

Art. 140. For all purposes the registration of discovery shall be deemed valid and complete from the date on which the Director of Lands and Mines affixed his visé to the certificate, title or diploma. The discovery and the legal discoverer shall be recognised on and from the same date.

Art. 141. The time within which the registration and title of discovery remain valid and the rights of the legal discoverer to work the mine and to dispose of the same and its products are unlimited and shall be considered perpetual so long as the obligations instituted by Law No. 624 of September 9, 1905 and by the present Regulations be complied with.

CHAPTER X

OF THE DELIMITATION OF MINING PROPERTY

Art. 142. By the delimitation of mining property shall be understood the act of determining or fixing the limits within which a discoverer legally recognised in the terms of these Regulations or his successor or other official concessionaire may carry on work and make any installations necessary to the work of mining.

Art. 143. Delimitation of a mining property is facultative or obligatory.

§ 1. Delimitation is facultative : —

a) When the legal discoverer or proprietor of the mine is also owner of the soil, and work can be carried on without interference, independently of surveying or demarcation on account of the existence of natural limits, incontestable and well marked such as permanent water-courses, natural enclosures, ditches or equivalent landmarks.

b) When the discoverer, not being owner of the soil, has entered into agreement with him, and can with safety and freedom from embarrassment pursue the work of exploitation, dispensing with measurement and demarcation on account of the unmistakable character of the natural boundaries, as laid down in the preceding section.

c) When the ground has already been officially measured

and demarcated in a regular manner so as to guarantee freedom from doubt.

d) When, in the case of a public river, the selected reach granted under Article 131 has already been demarcated and measured in accordance with Articles 91 and 93.

§ 2. Delimitation is obligatory:—

a) In all cases not coming under sections *a*, *b*, *c*, and *d* of the preceding paragraph.

b) If the lands be State property and have not been officially measured and demarcated.

c) If it be advisable to rectify and correct the former demarcation for the purpose of guarantee or better to localise the mining property.

d) If there arise the necessity of partial or total expropriation, in conformity with Article 131, of privately owned lands where the mineral area has not been measured and demarcated.

Art. 144. When demarcation is optional the legal discoverer may commence work from the moment of receiving the title of discovery in conformity with Articles 120 and 140 of these Regulations.

Art. 145. When demarcation is obligatory, the legal discoverer may not commence work until the survey is completed and approved, except that if he obtain previous Government sanction, without prejudice to the rights of third parties, the legal discoverer may initiate exploration, work and the demarcation survey at the same time.

Art. 146. A mining property, when the legal discoverer is owner of the soil, shall coincide with the limits of the estate; if, however, the mine should extend beneath neighbouring lands or such lands should be indispensable for the installation of necessary machinery, such neighbouring lands may be annexed to the mining property if they be State property, or may be expropriated if they be private property and no accord exist with the owner, always without prejudice to rights of third parties.

Art. 147. When the legal discoverer is not owner of the soil and no agreement is arrived at between the two, the limits of the mine shall be regulated by the size of the area expropriated and reputed sufficient for the purposes of working the mine and the methodical application of the rules of the art of mining. With regard to neighbouring lands belonging to the State, the provisions of the previous article shall be observed.

Art. 148. When the mine is situated on Government land the area shall include those points at which exploration has been undertaken and which shall not be over one hundred metres apart, and furthermore the area which the Government may consider technically necessary to the development of the deposit and the reasonable treatment of the products thereof.

Art. 149. The delimitation of reaches of public rivers shall be carried out as provided in Article 93, § § 1 and 2 and Article 131, in conformity with the terms of the concession.

Art. 150. The legal concessionaire shall be entitled to choose the situation most convenient for the purposes of the mining property, without prejudice to rights acquired by others and without causing prejudice to the interests and progress of industry.

Art. 151. Every mining property shall form one sole area, undivided by undefined areas.

Art. 152. The perimeter of a mining property shall be made of straight lines traced on the surface of the ground, and the subterranean portion by vertical planes corresponding to the said straight lines.

A mining property occupies the space circumscribed by this perimeter, extending indefinitely downwards in a vertical direction.

Art. 153. Rectification of a mining property is the act of correcting in the interests of the industry the earlier demarcation, including fresh areas of ground or separating others.

Art. 154. All rectifications shall depend on the ratification of the same by the Government, and should be made with respect to rights of third parties.

Art. 155. Rectification of reaches of public rivers shall be made in conformity with the provisions of the two preceding articles.

Art. 156. Only on the application of the legal discoverer, his successor or concessionaire, may a rectification be effected.

Art. 157. The delimitation of a mining property is subject to rectification for the following purposes and on the following conditions:—

§ 1. If during exploration, should the subterranean workings approximate to or pass into ground whereon no mine exists registered and delimited by another, or should the deposit change its direction thither, the area corresponding to the course of the deposit, or necessary to its working, shall be added to the property, in order that rights to the said deposit be guaranteed and that intrusion prejudicial to its working may be prevented; when such area is on private property, the process of expropriation shall be followed if no agreement with the owner be arrived at.

§ 2. In the same manner as laid down in the preceding paragraph shall lands essential for the installation of plant, construction or better localisation of buildings, stores, machine shops, for the cutting of timber or obtaining of other material destined to use in the working of the mine be added or annexed to the original property.

§ 3. It is permitted to exchange part of the area of the mining property for an equal area in any direction when both the original area and that required are derived from State lands, whether on account of discoveries or ramifications of the original, or of a new lode or vein, or for purposes of a subordinate or accessory character essential to the prosecution of the work of the mine.

§ 4. Parcels of land formerly demarcated which are no longer necessary to the working of the deposit, or for other purposes pertaining thereto, and which previously belonged to the State, and were by the State conceded for mining purposes, shall return to their former ownership.

§ 5. In case of augmentation of area or of exchange of areas, the part annexed shall form with the original part of, or with the remainder thereof, one sole property.

§ 6. On approval by Government of the new demarcation, in case the augmentation be State property, or realised the expropriation in case of private ownership of the new area, the landmarks of division between the original and the new areas shall be removed.

§ 7. It is essential to the granting of a title to the annexed land, in case of private ownership, that it be expropriated, if no accord with the owner be arrived at.

Art. 158. The delimitation of a reach of a public river may be rectified on the application of the legal discoverer with a view of better utilising the products of the working.

§ 1. The rectification shall not cause the area of marginal land permitted by Article 101 to be exceeded without previous Government sanction.

§ 2. The Government may not authorise amplification of the concession in excess of the length of 50 kilometres laid down by Article 131.

Art. 159. Application for the delimitation or rectification of a mining property or of the reach of a public river shall be made to the Delegate of Lands and Mines of the District, or to the Director of Lands and Mines.

Art. 160. All delimitations, as well as any rectification shall be carried out by the Delegate of Lands and Mines or by a competent assistant of the same appointed by him.

Art. 161. The Delegate on whose responsibility the delimitation or rectification is to be carried out shall take the following steps:—

§ 1. At least eight days previous to the commencement of the delimitation or rectification he shall cause *edicts* to be posted in public places calling upon persons interested or neighbouring proprietors, should there be such, to be present at the act, marking the time and place where delimitation or rectification shall commence.

§ 2. He shall notify by letter the proprietors of neighbouring mines and other interested persons, if they reside in or near the place; if however, they reside at a distance, the citation by publication of *edicts* shall be deemed sufficient, as provided by § 1.

Art. 162. Any protests shall be made before the Delegate of Lands and Mines, before or during the operations.

Art. 163. Protests shall not be taken into consideration except they be based on these Regulations.

Art. 164. Operations shall commence with a reconnaissance of the locality, if such have not been already made.

Art. 165. When the limits of a mining property do not coincide with those of the estate whereon it is situated, separate and distinct landmarks shall be employed to distinguish the limits thereof.

Art. 166. Upon the conclusion of the work of measurement and delimitation, the Delegate shall transmit to the Directorate of Lands and Mines the application form, a copy of the field-book and of the plan, with all information necessary to render the question clear, and also copies of any protests ignored, with reasons for such action.

Art. 167. The Director of Lands and Mines, being placed in possession the documents referred to in the preceding paragraph, shall submit them to the Government, together with his recommendation, for a decision to be taken.

Art. 168. Should the Government order any alteration to be made, the Director of Lands and Mines shall instruct the Delegate accordingly, who, after carrying out his instructions, shall again report.

Art. 169. Should the Government approve the work, the Director of Lands and Mines shall after annotating the documents of the case, place them in the archives, and shall communicate the approval to the Delegate.

Art. 170. When the delimitation includes land or property under private ownership which must be expropriated the Government shall grant to the legal discoverer or his representative a reasonable period within which to take expropriation proceedings, on pain of nullity of the delimitation and of the right to expropriation recognised by the decree issued approving the works.

Art. 171. No copy of field-books or plans shall have official value except it be furnished by the Directorate of Lands and Mines.

Art. 172. It is to be understood that official approval of a delimitation shall not imply recognition of the legitimacy of full dominical rights over the actual real estate, for the reason that the latter can only be sustained and the titles thereto, in conformity with the Land Laws.

Art. 173. The fact of approval of the work of measurement and demarcation of a mining property shall confer the immediate right of possession of such property should the land belong to the State or to the interested party; in the contrary case possession may be taken as soon as expropriation has been granted, if the owner will not enter into an agreement.

CHAPTER XI

OF EXPROPRIATION

Art. 174. The undermentioned property is liable to expropriation *pro bono publico* in favour of the legal discoverer

or mining concessionaire, in virtue of the provisions of Law 624 of September 9th, 1905 : —

§ 1. All private landed property necessary to the free utilisation of a deposit of mineral, sinking shafts, driving galleries, cutting trenches, excavation, establishment of stores, deposits, smelting furnaces, machinery for extraction or concentration, laying of pipes, building, providing means of communication and transport and finally for any and all installations above or under ground and for any purpose whatsoever indispensable to the work of mining.

§ 2. All rivers, brooks, streams, springs or fountains which may be necessary.

§ 3. All buildings and other works or betterments necessary to the work of the mine.

Art. 175. The Delegate of Lands and Mines or his competent assistant shall draw plans or maps of the houses, outbuildings, dependencies or lands, cession of which may be necessary observing with respect to the owner thereof the rules established with regard to the delimitation of mining property in the tenth chapter of these Regulations.

Art. 176. All proprietors, leaseholders, quit-renters, usufructuaries, tenants and dwellers of lands and houses the expropriation of which may have to be carried out in the manner determined by these Regulations shall not impede the persons commissioned to mark such survey in their passage or interrupt their operations for the confection of the necessary plans or maps (Article 114 of the Consolidation of the Civil Criminal and Commercial Laws of Bahia, volume IV.)

The surveyors or the legal discoverer or his representative may apply to the administrative authorities or police in case of interruption or refusal of entry. It shall, however, be understood that such proprietors, leaseholders, quitrenters, usufructuaries, tenants and dwellers shall be indemnified to the extent of the value of any property or betterment which may be damaged in the course of such survey.

Art. 177. Before remitting the report on the process to the Director of Lands and Mines, the Delegate may promote an agreement between the parties.

Art. 178. The proprietor may demand full expropriation of houses or lands which must be expropriated in part, should such be reduced to less than one-half of their extent or deprived of conveniences necessary to the use and enjoyment of the lands or houses not included in the expropriation or should the latter be greatly reduced by deprivation of important works or betterments. (Article 110, Consolidation of Laws, volume IV.)

Art. 179. Approval of plans by Government decree determines the grant of expropriation in favour of the legal discoverer, mine owner or concessionaire, *pro bono publico* of all lands, houses and dependencies included and entirely or partially in the respective plan or plans.

Art. 180. Protest, whether judicial or administrative, is

inadmissible against expropriation *pro bono publico* resulting from approval of the plans.

Art. 181. The legal discoverer, mineowner or concessionaire shall not take possession of lands, houses or dependencies without payment of the indemnity (Consolidation of Laws, Article 160.)

Art. 182. The process of indemnisation shall be initiated by the legal discoverer, mineowner or concessionaire before the local judge in case of failure to arrive at an amicable settlement with the owner of the lands, houses and dependencies expropriated, or when the said proprietors are minors or interdicted and their tutors or guardians do not accept the terms offered.

Art. 183. For the initiation of the process of indemnisation the legal discoverer mineowner or concessionaire shall apply for the citation of each proprietor interested for the purpose of choosing two arbitrators who, together with two nominated in the plaintiff's application shall proceed to the valuation of the lands, houses and dependencies, if the proprietor refuse to accept the price offered. (Consolidation of Laws, Article 101. Volume IV.)

The application should be accompanied by the following documents.

a) Copy, certificate or proof of the publication in the official press of the decree approving the delimitation of the lands and the plan of the houses and dependencies necessary to the work of mining.

b) Official copy of the plan of land houses and dependencies.

c) Attestation of the Directorate of Lands and Mines or of the Delegate of the same certifying that the land, houses and dependencies which are dealt with in the application are those on the plan approved by the Government, and that such plan is accurate.

Art. 184. Within ten days dating from the day of citation the landowner or owners shall declare in person or by attorney, on pain of nonsuiting, if he or they accept or not the indemnity offered (Consolidation of Laws, Art. 102. Vol IV).

Art. 185. Tutors or guardians of landowners, when such exist shall be empowered by despatch of the Judge to accept offers of indemnity which they consider acceptable to their charges or wards.

Art. 186. The offer of the legal discoverer mineowner or concessionaire being accepted and the indemnity being paid to the owner of the land houses and dependencies or deposited if he refuse or is unable to receive it, the Judge shall cause to be issued in favour of the legal discoverer, mineowner or concessionaire an order of possession which shall serve as title and shall be executed without impediment from any embargo whatsoever.

Art. 187. In case of refusal of the indemnity offered the

proprietor shall declare his demand, and shall nominate two arbitrators on his side.

The Judge shall thereupon nominate a third, or in case of nonsuitor shall nominate all three. (Consolidation of Laws, Art. 105. Vol. IV.)

Art. 188. If the demand of the landowner be confirmed, the process of Article 186 shall be followed. (Consolidation of Laws, Art. 106. Vol. IV.)

Art. 189. If neither the valuation of the landowner or of the person interested in expropriation (legal discoverer mineowner or concessionaire) be accepted the arbitrators shall meet under the presidency of the Judge at a time and on a day by him appointed and in his presence shall value the indemnity to be paid, observing the provisions of these Regulations. (Consolidation of Laws, Art. 107. Vol. IV.)

Art. 190. When on account of litigation or for any other reason there is a doubt as to the true ownership of the lands houses and dependencies, the Judge shall fix as a reasonable sum to be paid the valuation made by two arbitrators nominated by the person interested in the expropriation and two appointed by himself to represent the legitimate owner of the lands, houses or dependencies ; and the sum shall be paid into court in order to be handed to whomsoever shall prove his right to it.

Art. 191. In any case, so soon as the valuation be made and the amount of the indemnity received or deposited the Judge shall order the emission of the order of possession in accordance with Article 186 of these Regulations.

Art. 192. The indemnity shall in no case be less than the sum offered by the person interested in expropriation, nor shall it exceed the sum demanded by the owner of the lands, houses or dependencies. (Consolidation of Laws, Art. 107. Vol. IV.)

Art. 193. Indemnities shall be fixed in favour of each person claiming under a separate title.

In case of usufruct, however, a single sum shall be fixed based on the total value of the lands, houses or dependencies, and the owner and usufructuary shall exercise their rights on the sum paid.

Art. 194. In valuing property for expropriation only the common and general estimate of its value shall be taken into account, and of the dispositions of these Regulations and of the law, the value of the deposit not being included, the finding or discovery of which constitutes an industrial invention of whosoever may possess the legal title of discovery or invention.

Art. 195. No indemnity shall be paid for rustic houses in excess of twenty years purchase calculated on the net rental after deducting cost of maintenance and repairs. (Consolidation of Laws, Art. 112. Vol. IV.)

Art. 196. In the valuation no account shall be taken of plantations, buildings or betterments effected after the discovery of the mine or after knowledge of intent to acquire for the

purpose of mining work the lands, houses and dependencies in the neighbourhood of the point of discovery. (Consolidation of Laws, Art. 108, Vol. IV.)

Art. 197. The parties or their attorneys may present to the arbitrators a summary of their cases, and it is permissible for the arbitrators to hear expert testimony, if they judge it advisable, and to make an inspection together or to delegate one or more of them to do so. (Consolidation of Laws, Art. 113, Vol. IV.)

Art. 198. From the sentence of the Judge, homologating or fixing the indemnity to be paid appeal lies to the Administrative Tribunal, but only of devolutive effect, when substantial forms have not been observed. (Consolidation of Laws, Art. 115, Vol. IV.)

Art. 199. On deposit of the indemnity, creditors and persons interested in the estate shall be cited to establish their claims, the expropriated lands, houses and dependencies remaining free of all onus, mortgage or pending actions, which shall not in any manner impede the expropriation. (Consolidation of Laws, Art. 117, Vol. IV.)

Art. 200. When the parties accept the terms offered proceedings shall still be taken in accordance with the preceding article. (Consolidation of Laws, Art. 119, Vol. IV.)

Art. 201. For the purpose of mulcting in costs, the Judge shall keep in view the following rules : — (Consolidation of Laws, Art. 118, Vol. IV.)

§ 1. If the indemnity do not exceed the sum offered the party refusing shall be condemned to pay costs.

§ 2. If the exigencies of the parties were equal the person in whose favour the expropriation is granted shall pay costs.

§ 3. If the indemnity be in excess of the offer but less than the demand, costs shall be divided in the same proportion.

§ 4. If the proprietors of lands, houses and dependencies shall make no declaration within the period granted under Article 184 of these Regulations they shall always be mulcted in costs.

Art. 202. If the Administrative Tribunal on appeal under Article 198 of these Regulations annul the process of indemnisation, a second valuation shall be made by arbitrators under the presidency of the legal substitute of the judge, and no further appeal shall lie. (Consolidation of Laws, Art. 121, Vol. IV.)

Art. 203. When the legal discoverer or his successor is proprietor of the soil and does not commence work within three years of the date of discovery, the Government may concede expropriation of the land, the mine and all dependencies to whomsoever may apply, on his giving proof of competence and of his having at his disposal the means necessary to carry to out the work with promptness and dispatch, and may announce in the principal industrial centres of the country and abroad the existence of the mine, its price and the conditions of its expropriation or acquisition.

§ 1. The expropriation value of lands of lands houses and dependencies shall be fixed by arbitration before a judge in conformity with this Chapter.

§ 2. The basis for the valuation of the mine shall be fixed by the amount of the tax of 1 % levied under Article 30, paragraph, of Law No. 624 of September 9th, 1905 and Article 137 of these Regulations.

§ 3. It shall be understood that if the mine has been adjudged abandoned in accordance with these Regulations and the title of discovery consequently be null and void, the indemnity shall be calculated exclusively on the basis of the land, houses and dependencies, the mineral deposit being excluded and the discovery or invention shall cease to be of value for lack of the title conferring rights to the mineral deposit.

Art. 204. Expropriation of private landed property containing mines adjudged abandoned by the Government shall be in favour of the State or of the official concessionaire, observing the conditions of § 3 of the preceding Article.

Art. 205. The Government has the right to decree for the benefit of the mining industry and *pro bono publico* the expropriation of any private property in all the cases contemplated in Law No. 624 of September 9th, 1905 and in these Regulations.

CHAPTER XII

ON THE WORKING OF MINES

Art. 206. The working of mines is the series of operations practised with a view to the extraction and utilisation for commercial purposes of mineral or fossil substances.

Art. 207. The working of mines may be undertaken only by persons holding the title of legal discoverer (owner of mine) or their concessionaires in accordance with these Regulations.

Art. 208. The right to work mines in the manner which they may judge most suitable, in accordance with these Regulations is guaranteed to the proprietors and their concessionaires.

Art. 209. The proprietor or concessionaire of a mine has the right to carry out within the mining property all the works or installations necessary independently of any authorisation so long as the rights of third parties suffer no prejudice.

Art. 210. A mine shall be reputed to be in active exploration for so long as there be no suspension of the principal operations, such as extraction of mineral, mechanical preparation of the same and pumping.

Art. 211. The working of a mine the possessor of which has effected registration, acquired the rights of legal discoverer and observed these Regulations may not be forcibly suspended by order or decision of any authority or functionary.

Art. 212. In case of lawsuits against mining establishments, judicial embargoes may be placed on the whole or part of the produce, but never on the establishment itself, in order

that no suspension of work in the mine or surface works may take place.

Art. 213. Any mine on which there is an execution pending may be administered by the creditor in whose favour such execution issues until the debt be discharged by sale of the produce or until the expiry of the execution process, but working shall not be interrupted and shall be conducted with and under the obligations of the proprietor.

§ 1. The proprietor shall be entitled to visit the mine and to accompany and fiscalise the working and the accounting.

§ 2. The proprietor shall be entitled to resume management in the following cases and by order of the court.

a) If the mine be not worked by the creditor in a competent and diligent manner.

b) If fraud in the administration be proved.

c) If the creditor's administration become careless or costly, after his attention has been called to the fault.

Art. 214. For the working of mines the provisions of Article 38 of these Regulations shall prevail.

Art. 215. The proprietors or legal discoverers of two or more neighbouring mines may on obtaining official consent constitute with them, one company in order to facilitate working once the utility of such amalgamation be proved, and if the various properties are contiguous forming one area only, without intervals. If there be intervening areas, the mining properties shall retain their individual character, even though they be all discovered by the same individual or though the proprietors be in partnership.

Art. 216. Should the Government recognise the impossibility of partial working of an extensive deposit having various legal discoverers of the same vein or deposit, separate exploration of which is slow, imperfect or disadvantageous, not warranting the installation of large and costly plant, the legal discoverers or their successors may be obliged to combine as a company for the working of the adjoining properties.

§ 1. If the parties do not come to an agreement as to their mutual obligations, the Delegate of Lands and Mines shall report his opinion on the matter and submit it to the decision of the Government.

§ 2. The mining property the proprietor of which does not comply with the decision of the Government may be expropriated *pro bono publico*.

Art. 217. Proprietors and concessionaires of mines shall have preference in the concessions of State waterfalls of which they have need for mining purposes.

Art. 218. The proprietor or concessionaire of a mine shall be entitled to utilise for mining purposes the waters of rivers, streams, brooks and springs which are not the property of third parties by legal title; if no agreement or contract be possible the Government may concede the right to expropriate them *pro bono publico*.

Art. 219. When it is indispensable or of great advantage to the working of a mine to open canals or divert water courses, the proprietor or concessionaire of a mine shall be entitled to carry out such works within the perimeter of the property, without prejudice to the rights of third parties; if it be necessary to carry out such works on the property of another with whom no agreement is possible, he shall proceed to expropriate the necessary land.

Art. 220. The proprietor or concessionaire of a mine shall be obliged to give a suitable direction to waters derived from canals or diverted streams, or from mined rainage or pumping, so that such waters may not become stagnant or cause prejudice to third parties.

Art. 221. The proprietor or concessionaire of a mine shall take all measures necessary to prevent any unsanitary conditions arising from the working of his mine.

Art. 222. Loss or damage caused to private or public property by the working of a mine shall be indemnified by the proprietor or concessionaire of the mine either by common accord or by arbitration before the Delegate of Lands and Mines, or in his absence or inability to act before the local Judge (*Juiz Preparador*.)

§ 1. The Delegate of Lands and Mines or the Judge shall preside at the choice of arbitrators and shall mark a short and reasonable period within which they may investigate the question and fix the amount of the indemnity.

§ 2. The arbitrator who fails to present his award within the period allowed may be replaced by another freely chosen by the Delegate of Lands and Mines or by the Judge.

§ 3. On receipt of the awards the Delegate of Lands and Mines or the Judge shall give his casting vote in case of disagreement, or in the contrary case shall decide in accordance with the valuation arrived at.

§ 4. Within eight days of the decision the proprietor or concessionaire of the mine shall effect the payment or deposit of the sum fixed by arbitration as indemnity on pain of embargo of the products of the mine in quantity sufficient to effect payment, or of an executive levy of the sum fixed with an increase of 20 %.

Art. 223. No person shall purchase minerals from any employé, servant or workman in the service of a mine in active exploration without a written and authentic authorisation from its owner.

All persons contravening this Article shall be punished as accessories, before the fact, in the crime of theft in conformity with the penal laws.

Art. 224. Trade secrets employed in metallurgical establishments and in the elaboration of mining products are hereby guaranteed.

CHAPTER XIII
OF THE TRANSMISSION AND INDIVISIBILITY OF MINING
PROPERTY

Art. 225. Mining property, constituted by title of discovery, subsequent delimitation and grant of possession may be transferred in its entirety in conformity with the provisions of Article 133 of these Regulations.

Art. 226. No mining property may be divided or disposed of in parcels or lots without previous official recognition and the express permission of the Government.

Art. 227. The Government shall authorise any such division and partial transfer if it be fully proved that from this act will not result prejudice or difficulty to the carrying on of mining work or to the treatment of the product.

Art. 228. Not even in case of inheritance shall a mining property be divided or transferred in parcels or lots without observing the provisions of the two preceding Articles.

Art. 229. On the death of the proprietor of a mine or any of his co-proprietors, the heirs may associate with each other and with the surviving proprietor or co-proprietors.

Art. 230. In case the heirs be not at accord among themselves or with the surviving proprietor or proprietors, the part of the deceased shall pass to the heir who indemnifies his co-heirs for the value of their interests, or it shall be sold and the purchase money divided among the heirs.

Art. 231. A mining property held under title or diploma of discovery as immovable property may be mortgaged when situated on legitimate private property, but only in conjunction with such lands and all accessories, such as constructions, buildings, workshops, machinery and other objects essential to the working of the mine and the treatment of the products thereof.

§ 1. It shall be essential that the deed of mortgage contain an express clause making it clear that the deposit is subject to all the charges, conditions and limitations of Law No. 624 of September 9, 1905 and of these Regulations.

§ 2. The clause required by the preceding paragraph should form part of the bond on pain of being taken as forming part of the same in case of omission.

Art. 232. When a mine is situated on State lands it may not be mortgaged, but all constructions, buildings, workshops, machinery and other property may be jointly mortgaged.

Art. 233. Whatever be the title of transference, the person acquiring the property is liable to perform the same duties and entitled to the same privileges as his predecessor.

Art. 234. Transfers or alienations carried out in violation of the dispositions of these Regulations shall be totally null and void.

CHAPTER XIV

OF ABANDONMENT OF MINES AND THEIR EFFECTS

Art. 235. A mine shall be considered to be abandoned in the following circumstances :—

§ 1. When the existence of a mineral deposit having been duly studied and proved, the same be not registered on account of neglect or fault of whosoever may have promoted the work of prospecting, and so omitting to obtain the title of legal discoverer.

§ 2. When the legal discoverer fails to initiate definite exploration within the period of three years from the date of the grant of title, when the mine is situated on lands belonging to the State or where the subsoil is reserved to the State.

§ 3. When, the legal discoverer being the owner of the soil, he fails within three years to commence active mining operations and fails further to prove to the immediate satisfaction of the Directorate of Lands and Mines the material and economic impossibility of working the deposit, and omits to pay the annual tax of 1 % on the value of the mine in the terms of Article 39, paragraph of Law No. 624 of September 9, 1905 and of Articles 137 and 138 of these Regulations.

§ 4. When, the causes material and economical officially recognised as impediments to the working of the deposit having ceased, the legal discoverer fails to commence working or to pay the tax of 1 % per annum on the value of the mine in the terms of the preceding paragraph.

§ 5. When in the absence of *force majeure* duly justified the mine is not maintained in active work, with sufficiency of employes and *matériel* or when operations are suspended for a prolonged period with a presumptive intention to abandon work.

§ 6. When the legal discoverer intimates in writing, directly and spontaneously to the Directorate of Lands and Mines his firm intention not to continue the working, so desisting from the exercise of his title as legal discoverer.

§ 7. When the legal discoverer falls into arrear in the payment of taxes and contributions in the form and on the terms of the fifteenth Chapter of these Regulations.

Art. 236. By material or economic impossibility, or *force majeure* referred to in paragraphs 3, 4 and 5 of the preceding article shall be understood any of the following cases. Disturbances of public order, forcing the workpeople to abandon work; lack of means of communication rendering access to the mine difficult; strikes of workmen in the district wherein the mine is situated; a glut in the market of the substances produced by the mine, or so low a price as not to permit extraction, transport and treatment of the products at a profit; with other analogous circumstances independent of the will of the legal discoverer and taken officially into consideration.

Art. 237. Abandonment in the cases contemplated in paragraphs 1, 2 and 6 of Article 235 shall be adjudged as done and completed immediately on verification of the facts.

Art. 238. Abandonment in the cases contemplated in paragraphs 3, 4, 5 and 7 of Article 235 shall be adjudged administratively by Government decree, after hearing the interested party, who shall be allowed a reasonable time within which to prove before the Directorate of Lands and Mines what he may allege in favour of his rights, on pain of nonsuiting in case of non-appearance.

Art. 239. On the expiry of the time referred to in the preceding article, the Directorate of Lands and Mines, studying the proofs presented by the interested party ; or in case of non-suiting, gathering the essential facts, and considering acceptable the evidence of material and economic impossibility of working, shall proceed in accordance with Article 235, §§ 3, 4, 5 and 7.

Art. 240. The Directorate of Lands and Mines, whenever it shall adjudge unacceptable the proofs or reasons presented to or collected by it for the exemption of the mine from sentence of abandonment shall submit the fact with full explanations necessary for the definitive decision of the Government.

Art. 241. Abandonment verified or adjudged shall involve annulment of the title of discovery and consequently extinction of the rights in the deposit of the person who may have registered the same or of his successor, but respecting, however, the right which he may have had to lands of his own property and to houses, machinery, workshops and other betterments to him pertaining.

Art. 242. Abandonment shall be notified, immediately on being adjudged by the Government, in the terms of Article 238, by *editaes* affixed to the doors of the Directorate of Lands and Mines, and by publication in the official organ.

Art. 243. In the cases referred to in Article 237 the publication of *editaes* in conformity with the preceding article shall not be required.

Art. 244. If the mine incurring sentence of abandonment be situated on legitimate private property, and be mortgaged, with lands and all accessories as provided by Article 231, the mortgagees shall retain their rights over the lands, houses, constructions, workshops, machinery and other accessories referred to in the said article.

Art. 245. If the mine incurring sentence of abandonment be situated upon State lands and a mortgage exist on the houses, constructions, workshops and machinery and other accessories in accordance with article 232, the rights of the mortgagees in this property shall be respected.

Art. 246. The mortgagees, on proving responsibility and the possession of means for continuing the work with little delay may obtain from Government the right to expropriate the property mortgaged to them.

Art. 247. At such time as the Government concedes to

any person showing proof of responsibility and of being competent and able to give guarantees for the prompt and immediate working of the deposit, the mortgagees shall recover from such person the indemnity to which they may be entitled under the mortgage.

Art. 248. Abandoned mines are the property of the State for so long as they are not conceded by Government to whomsoever may offer the greatest advantages and guarantees for their working.

Art. 249. Abandonment of a mine shall not exempt the person abandoning it from the payment of indemnity for damage done.

Art. 250. An appeal shall lie in cases of sentence of abandonment under Article 235, paragraphs 3, 4 and 5 to the Administrative Tribunal, but only for a new trial by the same or a similarly constituted court, within 30 days of the publication of the *edictes* referred to in Article 242.

Appeal must be made accompanied by full proofs of the lack of regular foundation for the sentence of abandonment.

Art. 251. Sentence of abandonment under Article 235, paragraphs 1, 2, 6 and 7 is without appeal.

Art. 252. Everything possible shall be done to facilitate measures to avoid abandonment of mines.

CHAPTER XV

OF THE TRIBUTARY REGIMEN

Art. 253. Every legal discoverer or his successor shall be entitled to the use and disposal of the products extracted from his mine in the manner and at the time most convenient to him while respecting the rights of third parties and paying the fiscal tributes which may be due.

Art. 254. All useful mineral substances extracted by the legal discoverer from mines situated on his own property or on lands acquired by him from the proprietor of the soil are subject to fiscal duties established by the Budget law of the State.

Art. 255. All useful mineral substances extracted from mines situated on lands the private property of the state, or on lands whereon the mining rights are reserved to the State shall be exempt from all taxes, State or Municipal, with the exception of the percentage fixed by the Government upon the gross value of the product, in accordance with the nature of the product and the conditions ruling at the mine, within the following limits: —

§ 1. From nil to 2 % for mines of coal, anthracite, lignite, peat, bituminous schist, iron, limestone and amethyst.

§ 2. From 1 % to 5 % for mines of manganese, copper, nickel, lead, bismuth, zinc, tin, mercury, antimony, arsenic, aluminium, carbonate of strontium or barium, phosphates,

nitrites, sulphates, graphite, petroleum, naphtha, asbestos, talc, crystals and other ores, minerals or fossils not specified.

§ 3. From 2% to 10% for mines of gold, silver platinum or precious stones,

§ 4. From 10% to 50% for mines of monazite and the rare earths.

Art. 256. The percentage to be paid within the limits of the preceding Article shall be fixed by the Secretary of State after hearing the Directorate of Lands and Mines.

Art. 257. The interested party may at any time, there being no express rule to the contrary, approach the Government either through the Secretary or directly through the Governor of the State in order to prove the necessity for an alteration in the percentage fixed in accordance with the preceding article.

Art. 258. The percentage shall be calculated upon the value and quantity of the products deposited at or near the mine.

Art. 259. For the fixation of the percentage there shall be taken into account the conditions of the deposit, the greater or less facility of working, the means of transport, the dimensions of the lode, the assay value of the ore, the climate of the district, and all circumstances calculated to influence the valuation of the deposit, in order that the percentage levied be moderate, equitable, and in accordance with the contributory capacity of the mine.

Art. 260. Whenever the Government consider it advantageous, differential rates within the limits of Article 255 may be levied with a view to encouraging the reduction, smelting, concentration or bettering of the principal useful substances found in the deposit.

Art. 261. Useful mineral substances extracted by the legal discoverer on public rivers, foreshores or augmentations of the latter, shall be subject to the percentage taxes of which Articles 255 and 260 treat.

Art. 262. Payment of the percentages dealt with in Articles 255 and 260 shall be made monthly, quarterly or half yearly, according to circumstances and at the option of the Government.

Art. 263. For the purpose of regulating the levying of fiscal tribute the necessary official orders shall be issued.

CHAPTER XVI

GENERAL DISPOSITIONS

Art. 264. All legal discoverers as owners of mines, shall incur the following essential obligations :—

§ 1. To initiate and carry on the work of the mine within three years counting from the date of completion of registration and issue of title,

§ 2. To maintain the mine in a state of active work, except in case of *force majeure* amply justifiable.

§ 3. To carry on the working of the mine in accordance with the rules of the art of mining and by the method which he may consider best, without any such ambitious operations as might render difficult or impossible the ulterior development or utilisation of the deposit.

§ 4. So to carry on subterranean work as to secure perfect safety and efficient ventilation.

§ 5. To have due regard to general order and public health.

§ 6. To compensate all damage or prejudice caused to third parties by his fault or lack of foresight.

§ 7. To permit and facilitate all necessary official visits of examination for the computation of the percentages due.

§ 8. To interest himself in the progress and improvement of the district, especially as regards means of communication and hygiene.

§ 9. To fulfil the obligations imposed by law and by these Regulations.

Art. 265. Individuals or collective entities of foreign nationality shall be implicitly subordinate to the dispositions of these Regulations and to the Brazilian courts, whether State or Federal, in all questions relating to mining work, with the same rights and obligations, and under identical conditions with persons of Brazilian nationality.

§ 1. The individual or collective entity shall for all purposes and for all legal or litigious ends be considered to be Brazilian, even when the capital be raised abroad, and when some or all employees are foreigners.

§ 2. All foreigners interested in the working of a mine, as owners, shareholders, creditors, partners or the heirs or all or any of them shall be on a par with Brazilians in all that concerns the work of the mine, and shall never be entitled to avail themselves of any right or privilege inherent to the quality of foreign citizen in any matter affecting the business of mining or the shares of the company, be the pretext what it may.

Art. 266. The costs of official proceedings for the benefit of any person interested in mining shall be paid by the said person.

Art. 267. The Government may call for public tenders when it shall consider the same advisable, and may concede to whomsoever may offer the best terms, mines belonging to the State and widely known to exist.

Art. 268. The utilisation of thermal or mineral springs belonging to the State shall be regulated by the Government, and it shall be competent for the Directorate of Lands and Mines to provide for the administration and fiscalisation thereof.

Art. 269. The laws and regulations in force in the State, and the mining statutes of cultured nations, shall constitute subsidiary legislation in cases omitted or not dealt with in these Regulations.

Art. 270. It shall be competent for the Government to deliberate, in accordance with the preceding article, on cases of omission.

CHAPTER XVII.

TRANSITORY DISPOSITIONS.

Art. 271. Mines of coal, iron or manganese shall be exempt from payment of the percentages treated of in Article 255 of the present Regulations, in virtue of Article 57 of Law No. 624 of September 9th, 1905, until the ninth day of September, 1915.

Art. 272. All contracts and concessions for prospecting or mining granted by the Government and in force on the day of publication of these regulations shall be respected until the expiration of the terms for which they were granted, but shall not be renewed except in conformity with Law No. 624 of September 9th, 1905 and with these Regulations.

Art. 273. Landed proprietors upon whose estates there exist well-known mines should without delay register the same and obtain the title of legal discoverer or inventor.

§ 1. For the full understanding of these regulations and of the obligations and limitations imposed by the same, a term of six months is granted counting from the date hereof.

§ 2. Any person registering within the said period of six months, together with other persons registering in accordance with these Regulations, shall be entitled to a term of three years within which to initiate and develop the working of the mine, counting from date of the registration.

§ 3. Proprietors of well-known mines who fail to register within the term of six months from the present date, apart from incurring the risk of loss of the title of legal discovery, shall be subject to the following : the period of three years within which to commence and develop work on pain of a tax of 1% on the value of the mine in conformity with Articles 137 and 138, shall be calculated from the date of these Regulations, as if registration had been effected on that day, and the owner then recognised as legal discoverer or inventor.

§ 4. No mine shall be worked without registration.

§ 5. Persons having mines in exploration shall effect registration within six months, on pain of suspension of work and apprehension of products until such time as the formality be complied with.

Art. 274. The right to a mine in active work on the date of publication of these Regulations shall be respected, to whomsoever it belong, and it shall be considered a constituted mining property on observation of the provisions of paragraph 5 of the preceding article.

Art. 275. The provisions of Article 273 shall not apply to a mine belonging to the State and already the subject of a concession or contract.

Art. 276. For so long as the service of registration outside the capital be not organised, all registrations shall be effected and terminated before the Directorate of Lands and Mines.

Art. 277. All discoverers of mines situated on lands the property of the State who shall register the same within one year counting from the date of the present Regulations shall pay as a registration fee the minimum sum authorised by Article 116 paragraph 6 of these Regulations.

